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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,020	07/31/2003	Carl Smith	VISAP076/P-13601	4731
75458 7590 09/24/2009 Beyer Law Group LLP/Visa P.O. BOX 1687 Cupertino, CA 95015-1687				
EXAMINER				
COLAN, GIOVANNA B				
ART UNIT		PAPER NUMBER		
2162				
NOTIFICATION DATE		DELIVERY MODE		
09/24/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTOmail@beyerlaw.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/633,020

Applicant(s)

SMITH ET AL.

Examiner

GIOVANNA COLAN

Art Unit

2162

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 September 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/John Breene/
Supervisory Patent Examiner, Art Unit 2162

Continuation of 11. does NOT place the application in condition for allowance because:

1. Applicant argues that the applied art fails to disclose; "smart card features".

Examiner respectfully disagrees. Tushie/Du does disclose: smart card features, a smart card feature being a parameter representing a business requirement of said smart card issuer dictating smart card usage (Col. 2 and 18, lines 39 - 40 and 5 - 24, "The card framework template record describes the structure of the chip on the card. In the sample shown below, the SMF entry defines a root directory (3F00), while \$DF entries define a medical application (5F20), and an accounting application (5F10). Within each directory are application-specific files defined by \$EF entries, such as 6F00 containing the account name and 6F10 containing the account number. All file descriptive data resides in the card framework template and is referenced at various times during the smart card issuing process", wherein the card framework template record corresponds to the default member profile claimed; and wherein entries, such as, account name and account number correspond to the default values for smart card features; Col. 2, lines 54 - 59; Col. 8, lines 48 - 51; Col. 14, lines 3 - 5; Col. 17, lines 9 - 12; and Col. 14, lines 22 - 33, Tushie). Tushie's entries (parameter of smart card features) define a medical application, an accounting application, and/or other application-specific files. Medical or accounting application corresponds to a business requirement dictating smart card usage; for example, usage in a Medical application and/or usage in an accounting application.

2. Applicant argues that; "Receiving smart card information not disclosed".

Examiner respectfully disagrees. Tushie/Du does disclose: receiving from the user (Page 6, lines 40 - 46, Fig. 1 B, item 152, Page 7, lines 48 - 59, Tushie), responses to the plurality of queries ([0048], Du), said responses being received by said software tool and reflecting smart card features desired by said card issuer (Fig. 1A, item 150, Card Issuer Mgmt System, Page 9, lines 23 - 26 and 33 - 38; respectively, Tushie; and [0048] - [0050], Du).

3. Applicant argues that is; "Not Obvious to combined because Du is non-analogous art".

In response to applicant's argument that Du is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Du is in the field of applicant's endeavor ("smart cards"; see: Du's abstract).